IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

MACA.No. 2134 of 2005(D)

OPMV.1452/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PATHANAMTHITTA
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APPELLANTS/ PETITIONER

THOMAS VARGHESE, S/O.VARGHESE,
ARAYALUMMOOTTIL HOUSE, CHENGANNUR VILLAGE,
ALAPPUZHA DISTRICT.

BY ADV. SRI.M.SHAJU PURUSHOTHAMAN
SRI.V.V.SHAJI
SMT.SINDHU MURALEEDHARAN
SRI.K.S.RAJESH

RESPONDENTS/RESPONDENTS:
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1. K.GOPALAN, S/O.KUMARASWAMY,
KTC 11 UDT SCHOOL, 1769 TVM ROAD,
THIRUNELVELI 627 003.
*** DELETED.**

2. SUBHRAMANIAN, TC 245071, SUMANGALI,
THYCAUDU, TRIVANDRUM.

3. SUNNY VARGHESE, ARALUMMOOTTIL,
PUTHENCAUVU, CHENGANNUR.

4. HARINARAYANAN, S/O.N.GENUGOPAL,
USHA BHAVAN, ANGADICAL, PUTHEN CAVU, CHENGANNUR.

5. DIVISIONAL MANAGER, NATIONAL INSURANCE
CO.LTD., DIVISIONAL OFFICE, TRIVANDRUM.

6. THE DIVISIONAL MANAGER,
NEW INDIA ASSURANCE CO. CHINNAKKADA, KOLLAM.

R1 IS DELETED FROM THE PARTY AT THE RISK OF THE APPELLANT VIDE ORDER DATED 30/11/06 ON I.A.2161/06.

R5 BY ADV. SRI.LAL GEORGE
R6 BY SRI.A.C.DEVY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 2134 OF 2005

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Dated this the 17th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Pathanamthitta in O.P.(MV) 1452/98. The claimant while riding as a pillion rider met with an accident and sustained serious injuries. The Tribunal on a consideration of the materials awarded a total compensation of Rs.2,17,340/-. It is against that decision the present appeal is filed. Respondents 1, 2 and 5 in the claim petition were made liable to pay the amount.

2. Heard both sides. The main grievance of the claimant is that the income taken is grossly inadequate. He was aged 36 years at the time of the accident. The Tribunal has only taken a notional income of Rs.1,500/- whereas the claimant submitted that he is having a monthly income of Rs.7,500/-. No acceptable oral or documentary evidence has been produced to establish that he is getting a salary of Rs.7,500/-. Considering the fact that he is a person aged 36 years and is engaged in agriculture, who is

maintaining a family, we have no hesitation to fix his income at Rs.2,000/- and proceed to calculate the disability compensation. When it is so for 18% disability, the annual loss of earning will come to Rs.4,320/- and applying a multiplier of 16, the permanent disability compensation will come to Rs.51,840/-. Therefore, the additional compensation the claimant will be entitled to is Rs.17,280/-. The Tribunal has awarded loss of earning for 10 months at the rate of Rs.1,500/- per month. Since we have fixed the income at Rs.2,000/-, the claimant will be entitled to a sum of Rs.5,000/- more under that head. On all other heads the Tribunal has awarded adequate compensation which does not call for any interference.

In the result, the M.A.C.A. is disposed of and the claimant is awarded an additional compensation of Rs.22,280/- with 7% interest on the said sum from the date of petition till realisation and the 5th respondent Insurance Company is directed to deposit that amount within two months from the date of receipt of a copy of this judgment.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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